

## REMARKS

In the *Office Action* mailed September 8, 2004, by Examiner Glessner in Art Unit 3635, Claims 1-17 are pending in the application and all stand presently rejected. By the present *Response and Amendment*, Applicant amends Claims 1-3, 10, and 13. Claims 11, 12 and 14-17 are cancelled. Claims 4, 5 and 6-9 have been amended to claim dependency from claim 10. No new matter is believed to have been added by the present *Response and Amendment*. It is respectfully submitted that the present Application is in condition for allowance for the following reasons.

### **1. The Present Invention**

The present invention is concerned with drying a structural waterproofing system's open space or conduit, the foundation and soil in the area proximate to the waterproofing system. Structural waterproofing systems are utilized to remove water from the vicinity of a structure's foundation. Water problems exist for many reasons, but the most common is poor drainage, or negatively sloped areas around the foundation of the structure such as a house. As it rains, water flows toward the foundation of a house and as the water pools around the foundation, the hydrostatic pressure builds up and the water seeps into the area where the structure rests on the foundation. Consequently, water enters into the subfloor area of the structure and soaks the load bearing soil. The soaking of the soil presents problems in that the soil can no longer bear the weight of the foundation resulting in the foundation shifting. This sometimes results in the entire loss of the structure.

Waterproofing systems incorporate a variety of ways to carry the water away to a gravity drain or pumping means. To install these waterproofing systems, the basement floor must be broken to provide access to the subfloor area. Maintaining the load bearing integrity of the soil around the foundation is paramount and in order to accomplish this, water must be removed from the area proximate the foundation. Consequently, access is needed to provide drainage around the area proximate the foundation.

A problem with waterproofing systems is that they are intended to draw water away from the foundation. Consequently, water collects in the soil area located near the foundation in the subfloor soil area of the structure. While waterproofing systems generally do a good job in removing the initial inflow of water to the system, residual amounts of water, which the systems cannot remove due to their configuration, remain in waterproofing system and the load bearing

soil near the foundation. Consequently, the soil softens and ultimately may fail to support the structure's foundation. In fact, many houses requiring waterproofing systems also require piers to be placed underneath the foundation for shoring up the structure.

Consequently, the most significant problem with waterproofing system is that in doing their job of collecting water, they fail in disposing the entire quantity of water collected by the system and also draw water to the surrounding load bearing soil potentially weakening the soil. This residual water poses significant dangers to the foundations stability. Hence, applicant has invented a novel drying system which is incorporated into a standard waterproofing system. Namely, applicant has found that by drawing air through the waterproofing system, the residual moisture from the system and soil surrounding the foundation is removed. By maintaining the soil in a dry state, the load bearing character of the soil is maintained thereby preserving the structure's integrity. This solution is not disclosed by the prior art.

## **2. U.S. Patent 3,975,467 to Beck**

The primary reference cited by the examiner is U.S. Patent 3,975,467 to Beck. Beck discloses a baseboard drainage system and not a waterproofing drying system. Beck specifically identifies that his invention is unrelated to a waterproofing system. At column 1 lines 30-41, Beck discloses that several systems have been developed below the basement floor, and such systems require concrete removal, digging and installation of new concrete after the drainage tiles are installed which increases the costs of such systems. Beck is describing a typical waterproofing system of which he is not. Beck's invention is intended to alleviate such destruction and consists of a drainage system solely for removing water from the basement. While suitable for its intended purpose, Beck only deals with removing water from the basement and does nothing to maintain the load bearing integrity of the structure's foundation. This is not applicant's invention.

In the Beck system, weep holes are positioned within the walls of the basement for collecting water. However, the problem of water underneath the subfloor still exists. Furthermore, for water to reach the basement walls, it typically does so due to the rise in the water level which has a base which exists underneath the basement wall at the footing of the foundation. Consequently, Beck does not address the need for and the removal of water around the soil which the foundation rests. Hence, Beck does not solve the problem which applicant's invention addresses, namely, the maintenance of the soil integrity around the footing.

### **3. The Amended Claims**

Independent Claims 1, 10, and 13 have been amended to clarify that the invention is directed to removing the water from a waterproofing system, the foundation and the subfloor soil. This is quite distinct from Beck's disclosure. The removal of the water moisture from the subfloor results in the soil being dried and consequently reduces the possibility of the soil loosening resulting in the structure's footing shifting. The load bearing integrity of the soil is maintained. Basis for this amendment can be found in the application as originally filed at pages 4-6, and Figs. 1 and 2. None of the cited art discloses, teaches, or suggests utilizing an airflow to remove residual moisture from a subfloor waterproofing system, adjacent soils or foundation as in independent Claims 1, 10 and 13.

Claims 2-8, and 14-17 depend from independent Claims 10 and 13 respectively, and thus are believed to be allowable for the additional limitations contained therein.

### **4. The Objections to the Drawings under 37 CFR 1.83(a)**

The Examiner has objected to the drawings for failing to show a "gravity drain comprising a plurality of drain segments." Claim 11 has been cancelled. Accordingly, Applicant believes no new drawings are required.

### **5. Claim Rejections under 35 USC 112, Second Paragraph**

The Examiner has rejected Claim 3 stating that there is insufficient antecedent basis for the limitation "said remote first end" in line 2 of the claim and for "said opposing second end" in line 3 of the claim. Applicant has amended Claim 3 to clarify that the first end of the waterproofing system's open space or void is a "remote first end" and that the opposing end is an "opposing second end." Therefore, it is believed that this rejection is overcome.

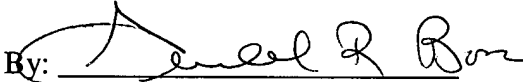
### **6. Fees**

No Claims fees are believed due, as the total number of Claims remains at twenty or less and the total number of independent Claims remains at three or less. This *Response and Amendment* is being filed with a petition for three months extension of time from the original mailing of the *Office Action*. If any additional fees are deemed due, authorization is given to charge deposit account 20-1507.

### CONCLUSION

Applicant respectfully submits that the forgoing *Response and Amendment* is a complete response to the *Office Action*, and that the pending Claims are in full condition for allowance. Accordingly, Applicant respectfully requests early and favorable action. The Examiner is invited and encouraged to contact the undersigned if such contact may enhance the efficient prosecution of the Application to issue.

Respectfully Submitted

By: 

Gerald R. Boss  
Registration No. 36,460  
Attorney for Applicant

Troutman Sanders LLP  
600 Peachtree Street, NE  
Suite 5200  
Atlanta, Georgia 30308-2216  
Telephone: (404) 885-3622  
Facsimile: (404) 962-6512